

SHB 2779 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

ADOPTED 03/05/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 76.48 RCW
4 to read as follows:

5 (1) Except as otherwise provided in this section, no person may
6 sell, or attempt to sell, any amount of raw or unprocessed
7 huckleberries without first obtaining a specialized forest products
8 permit as provided in RCW 76.48.060, regardless if the huckleberries
9 were harvested with the consent of the landowner.

10 (2) If the possessor of the huckleberries being offered for sale is
11 able to show that the huckleberries originated on land owned by the
12 United States forest service, then the requirements of this section may
13 be satisfied with the display of a valid permit from the United States
14 forest service that lawfully entitles the possessor to harvest the
15 huckleberries in question.

16 (3) Nothing in this section creates a requirement that a
17 specialized forest products permit is required for an individual to
18 harvest, possess, or transport huckleberries.

19 (4) Compliance with this section allows an individual to sell, or
20 offer for sale, raw or unprocessed huckleberries. Possession of a
21 specialized forest products permit does not create a right or privilege
22 to harvest huckleberries. Huckleberries may be harvested only with the
23 permission of the landowner and under the terms and conditions
24 established between the landowner and the harvester.

25 **Sec. 2.** RCW 76.48.050 and 2005 c 401 s 2 are each amended to read
26 as follows:

27 (1) Except as otherwise provided in subsection (3) of this section,
28 specialized forest products permits shall consist of properly completed
29 permit forms validated by the sheriff of the county in which the

1 specialized forest products are to be harvested. Each permit shall be
2 separately numbered and the issuance of the permits shall be by
3 consecutive numbers. All specialized forest products permits shall
4 expire at the end of the calendar year in which issued, or sooner, at
5 the discretion of the ((~~permitter~~ [permitter])) permitter.

6 (2) A properly completed specialized forest products permit form
7 shall include:

8 ((+1)) (a) The date of its execution and expiration;

9 ((+2)) (b) The name, address, telephone number, if any, and
10 signature of the ((~~permitter~~ [permitter])) permitter;

11 ((+3)) (c) The name, address, telephone number, if any, and
12 signature of the permittee;

13 ((+4)) (d) The type of specialized forest products to be harvested
14 or transported;

15 ((+5)) (e) The approximate amount or volume of specialized forest
16 products to be harvested or transported;

17 ((+6)) (f) The legal description of the property from which the
18 specialized forest products are to be harvested or transported,
19 including the name of the county, or the state or province if outside
20 the state of Washington;

21 ((+7)) (g) A description by local landmarks of where the
22 harvesting is to occur, or from where the specialized forest products
23 are to be transported;

24 ((+8)) (h) For cedar products, cedar salvage, and specialty wood,
25 a copy of a map or aerial photograph, with defined permitted
26 boundaries, included as an attachment to the permit;

27 ((+9)) (i) A copy of a valid picture identification; and

28 ((+10)) (j) Any other condition or limitation which the
29 ((~~permitter~~ [permitter])) permitter may specify.

30 (3) For permits intended to satisfy the requirements of section 1
31 of this act relating only to the sale of huckleberries, the specialized
32 forest products permit:

33 (a) May be obtained from the department of natural resources or the
34 sheriff of any county in the state;

35 (b) Must, in addition to the requirements of subsection (2) of this
36 section, also contain information relating to where the huckleberries
37 were, or plan to be, harvested, and the approximate amount of
38 huckleberries that are going to be offered for sale; and

1 (c) Must include a statement designed to inform the possessor that
2 permission from the landowner is still required prior to the harvesting
3 of huckleberries.

4 (4) Except for the harvesting of Christmas trees, the permit or
5 true copy thereof must be carried by the permittee and the permittee's
6 agents and be available for inspection at all times. For the
7 harvesting of Christmas trees only a single permit or true copy thereof
8 is necessary to be available at the harvest site.

9 **Sec. 3.** RCW 76.48.060 and 2005 c 401 s 3 are each amended to read
10 as follows:

11 (1) A specialized forest products permit validated by the county
12 sheriff shall be obtained by a person prior to:

13 (a) Harvesting from any lands, including his or her own, more than
14 five Christmas trees, more than five native ornamental trees or shrubs,
15 more than five pounds of cut or picked evergreen foliage, any cedar
16 products, cedar salvage, processed cedar products, or more than five
17 pounds of Cascara bark, or more than five United States gallons of a
18 single species of wild edible mushroom; or

19 (b) Selling, or offering for sale, any amount of raw or unprocessed
20 huckleberries.

21 (2) Specialized forest products permit forms shall be provided by
22 the department of natural resources, and shall be made available
23 through the office of the county sheriff to permittees or (~~permitters~~
24 ~~{permitters}~~) permitters in reasonable quantities. A permit form
25 shall be completed in triplicate for each (~~permittor's {permittor's}~~)
26 permittor's property on which a permittee harvests specialized forest
27 products. A properly completed permit form shall be mailed or
28 presented for validation to the sheriff of the county in which the
29 specialized forest products are to be harvested.

30 (3) Before a permit form is validated by the sheriff, sufficient
31 personal identification may be required to reasonably identify the
32 person mailing or presenting the permit form and the sheriff may
33 conduct other investigations as deemed necessary to determine the
34 validity of the information alleged on the form. When the sheriff is
35 reasonably satisfied as to the truth of the information, the form shall
36 be validated with the sheriff's validation stamp.

1 (4) Upon validation, the form shall become the specialized forest
2 products permit authorizing the harvesting, possession, or
3 transportation of specialized forest products and the sale of
4 huckleberries, subject to any other conditions or limitations which the
5 (~~permitter~~ ~~{permitter}~~) permitter may specify. Two copies of the
6 permit shall be given or mailed to the (~~permitter~~ ~~{permitter}~~)
7 permitter, or one copy shall be given or mailed to the (~~permitter~~
8 ~~{permitter}~~) permitter and the other copy given or mailed to the
9 permittee. The original permit shall be retained in the office of the
10 county sheriff validating the permit.

11 (5) In the event a single land ownership is situated in two or more
12 counties, a specialized forest product permit shall be completed as to
13 the land situated in each county.

14 (6) While engaged in harvesting of specialized forest products,
15 permittees, or their agents or employees, must have readily available
16 at each harvest site a valid permit or true copy of the permit.

17 **Sec. 4.** RCW 76.48.085 and 2005 c 401 s 6 are each amended to read
18 as follows:

19 (1) Buyers who purchase specialized forest products or
20 huckleberries are required to record:

21 ~~((1))~~ (a) The permit number;

22 ~~((2))~~ (b) The type of forest product purchased, and whether
23 huckleberries were purchased;

24 ~~((3))~~ (c) The permit holder's name; and

25 ~~((4))~~ (d) The amount of forest product or huckleberries
26 purchased.

27 (2) The buyer or processor shall keep a record of this information
28 for a period of one year from the date of purchase and must make the
29 records available for inspection upon demand by authorized enforcement
30 officials.

31 (3) The buyer of specialized forest products must record the
32 license plate number of the vehicle transporting the forest products or
33 huckleberries on the bill of sale, as well as the seller's permit
34 number on the bill of sale. This section shall not apply to
35 transactions involving Christmas trees.

36 (4) This section shall not apply to buyers of specialized forest
37 products at the retail sales level.

1 **Sec. 7.** RCW 76.48.120 and 2003 c 53 s 373 are each amended to read
2 as follows:

3 (1) It is unlawful for any person, upon official inquiry,
4 investigation, or other authorized proceedings, to offer as genuine any
5 paper, document, or other instrument in writing purporting to be a
6 specialized forest products permit, or true copy thereof,
7 authorization, sales invoice, or bill of lading, or to make any
8 representation of authority to possess or conduct harvesting or
9 transporting of specialized forest products, or the sale of
10 huckleberries, knowing the same to be in any manner false, fraudulent,
11 forged, or stolen.

12 (2) Any person who knowingly or intentionally violates this section
13 is guilty of a class C felony punishable by imprisonment in a state
14 correctional institution for a maximum term fixed by the court of not
15 more than five years or by a fine of not more than five thousand
16 dollars, or by both imprisonment and fine.

17 (3) Whenever any law enforcement officer reasonably suspects that
18 a specialized forest products permit or true copy thereof,
19 authorization, sales invoice, or bill of lading is forged, fraudulent,
20 or stolen, it may be retained by the officer until its authenticity can
21 be verified.

22 **Sec. 8.** RCW 76.48.200 and 1995 c 366 s 17 are each amended to read
23 as follows:

24 Minority groups have long been participants in the specialized
25 forest products and huckleberry harvesting industry. The legislature
26 encourages agencies serving minority communities, community-based
27 organizations, refugee centers, social service agencies, agencies and
28 organizations with expertise in the specialized forest products and
29 huckleberry harvesting industry, and other interested groups to work
30 cooperatively to accomplish the following purposes:

31 (1) To provide assistance and make referrals on translation
32 services and to assist in translating educational materials, laws, and
33 rules regarding specialized forest products and huckleberries;

34 (2) To hold clinics to teach techniques for effective picking; and

35 (3) To work with both minority and nonminority permittees in order
36 to protect resources and foster understanding between minority and
37 nonminority permittees.

1 To the extent practicable within their existing resources, the
2 commission on Asian-American affairs, the commission on Hispanic
3 affairs, and the department of natural resources are encouraged to
4 coordinate this effort.

5 **Sec. 9.** RCW 76.48.020 and 2007 c 392 s 3 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Authorization" means a properly completed preprinted form
10 authorizing the transportation or possession of Christmas trees which
11 contains the information required by RCW 76.48.080, a sample of which
12 is filed before the harvesting occurs with the sheriff of the county in
13 which the harvesting is to occur.

14 (2) "Bill of lading" means a written or printed itemized list or
15 statement of particulars pertinent to the transportation or possession
16 of a specialized forest product.

17 (3) "Cascara bark" means the bark of a Cascara tree.

18 (4) "Cedar processor" means any person who purchases, takes, or
19 retains possession of cedar products or cedar salvage for later sale in
20 the same or modified form following removal and delivery from the land
21 where harvested.

22 (5) "Cedar products" means cedar shakeboards, shake and shingle
23 bolts, and rounds one to three feet in length.

24 (6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs
25 having a volume greater than one cubic foot and being harvested or
26 transported from areas not associated with the concurrent logging of
27 timber stands (a) under a forest practices application approved or
28 notification received by the department of natural resources, or (b)
29 under a contract or permit issued by an agency of the United States
30 government.

31 (7) "Christmas trees" means any evergreen trees or the top thereof,
32 commonly known as Christmas trees, with limbs and branches, with or
33 without roots, including fir, pine, spruce, cedar, and other coniferous
34 species.

35 (8) "Cut or picked evergreen foliage," commonly known as brush,
36 means evergreen boughs, huckleberry foliage, salal, fern, Oregon grape,
37 rhododendron, mosses, bear grass, scotch broom (*Cytisus scoparius*), and

1 other cut or picked evergreen products. "Cut or picked evergreen
2 foliage" does not mean cones, berries, any foliage that does not remain
3 green year-round, or seeds.

4 (9) "Harvest" means to separate, by cutting, prying, picking,
5 peeling, breaking, pulling, splitting, or otherwise removing, a
6 specialized forest product (a) from its physical connection or contact
7 with the land or vegetation upon which it is or was growing or (b) from
8 the position in which it is lying upon the land.

9 (10) "Harvest site" means each location where one or more persons
10 are engaged in harvesting specialized forest products close enough to
11 each other that communication can be conducted with an investigating
12 law enforcement officer in a normal conversational tone.

13 (11) "Huckleberry" means the following species of edible berries,
14 if they are not nursery grown: *Vaccinium membranaceum*, *Vaccinium*
15 *deliciosum*, *Vaccinium ovatum*, *Vaccinium parvifolium*, *Vaccinium*
16 *globulare*, *Vaccinium ovalifolium*, *Vaccinium alaskaense*, *Vaccinium*
17 *caespitosum*, *Vaccinium occidentale*, *Vaccinium uliginosum*, *Vaccinium*
18 *myrtilus*, and *Vaccinium scoparium*.

19 (12) "Landowner" means, with regard to real property, the private
20 owner, the state of Washington or any political subdivision, the
21 federal government, or a person who by deed, contract, or lease has
22 authority to harvest and sell forest products of the property.
23 "Landowner" does not include the purchaser or successful high bidder at
24 a public or private timber sale.

25 (13) "Native ornamental trees and shrubs" means any trees or shrubs
26 which are not nursery grown and which have been removed from the ground
27 with the roots intact.

28 (14) "Permit area" means a designated tract of land that may
29 contain single or multiple harvest sites.

30 (15) "Person" includes the plural and all corporations, foreign or
31 domestic, copartnerships, firms, and associations of persons.

32 (16) "Processed cedar products" means cedar shakes, shingles, fence
33 posts, hop poles, pickets, stakes, rails, or rounds less than one foot
34 in length.

35 (17) "Sheriff" means, for the purpose of validating specialized
36 forest products permits, the county sheriff, deputy sheriff, or an
37 authorized employee of the sheriff's office or an agent of the office.

1 (18) "Specialized forest products" means Christmas trees, native
2 ornamental trees and shrubs, cut or picked evergreen foliage, cedar
3 products, cedar salvage, processed cedar products, specialty wood, wild
4 edible mushrooms, and Cascara bark.

5 (19) "Specialized forest products permit" means a printed document
6 in a form printed by the department of natural resources, or true copy
7 thereof, that is signed by a landowner or his or her authorized agent
8 or representative, referred to in this chapter as (~~"permitters~~
9 ~~{permitters}"~~) "permitters" and validated by the county sheriff and
10 authorizes a designated person, referred to in this chapter as
11 "permittee," who has also signed the permit, to harvest and transport
12 a designated specialized forest product from land owned or controlled
13 and specified by the (~~permitter {permitter}~~) permitter and that is
14 located in the county where the permit is issued, or sell raw or
15 unprocessed huckleberries.

16 (20) "Specialty wood" means wood that is:

17 (a) In logs less than eight feet in length, chunks, slabs, stumps,
18 or burls; and

19 (b) One or more of the following:

20 (i) Of the species western red cedar, Englemann spruce, Sitka
21 spruce, big leaf maple, or western red alder;

22 (ii) Without knots in a portion of the surface area at least
23 twenty-one inches long and seven and a quarter inches wide when
24 measured from the outer surface toward the center; or

25 (iii) Suitable for the purposes of making musical instruments or
26 ornamental boxes.

27 (21) "Specialty wood buyer" means the first person that receives
28 any specialty wood product after it leaves the harvest site.

29 (22) "Specialty wood processor" means any person who purchases,
30 takes, or retains possession of specialty wood products or specialty
31 wood salvage for later sale in the same or modified form following
32 removal and delivery from the land where harvested.

33 (23) "Transportation" means the physical conveyance of specialized
34 forest products outside or off of a harvest site by any means.

35 (24) "True copy" means a replica of a validated specialized forest
36 products permit as reproduced by a copy machine capable of effectively
37 reproducing the information contained on the permittee's copy of the
38 specialized forest products permit. A copy is made true by the

1 permittee or the permittee and (~~permitter~~[permitter])) permitter
2 signing in the space provided on the face of the copy. A true copy
3 will be effective until the expiration date of the specialized forest
4 products permit unless the permittee or the permittee and (~~permitter~~
5 ~~[permitter]~~)) permitter specify an earlier date. A (~~permitter~~
6 ~~[permitter]~~)) permitter may require the actual signatures of both the
7 permittee and (~~permitter~~[permitter])) permitter for execution of a
8 true copy by so indicating in the space provided on the original copy
9 of the specialized forest products permit. A permittee, or, if so
10 indicated, the permittee and (~~permitter~~[permitter])) permitter, may
11 condition the use of the true copy to harvesting only, transportation
12 only, possession only, or any combination thereof.

13 (25) "Wild edible mushrooms" means edible mushrooms not cultivated
14 or propagated by artificial means."

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15 On page 1, line 1 of the title, after "huckleberries;" strike the
16 remainder of the title and insert "amending RCW 76.48.050, 76.48.060,
17 76.48.085, 76.48.086, 76.48.110, 76.48.120, 76.48.200, and 76.48.020;
18 and adding a new section to chapter 76.48 RCW."

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